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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|-------------------------|------------------|
| 09/915,672 | 07/26/2001 | John M. Surwillo | 070191/320 (31-CD-6181) | 7286 |

7590 01/20/2004

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EXAMINER

OROPEZA, FRANCES P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3762

14

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 1/6/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see *68 Fed. Reg. 38611*, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. **Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.**

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: SEE ATTACHMENT #5

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

July 22, 2003 (rev.)

**Notice Of Defective Paper In
Ex Parte Reexamination**

Contr I Number

09/915,672

Examin r

Frances P. Oropeza

Patent Under R examination

SURWILLO ET AL.

Art Unit

3762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

1. ☐ Since no proof of service was included with the paper filed on _____, it fails to comply with 37 CFR 1.248 and 1.540. Proof of service is required within ONE (1) MONTH from the mailing date of this letter or within the time remaining in the response period of the last Office action. Failure to provide proof of service may result in a refusal to consider the paper.
2. ☐ The paper filed on _____ is unsigned. A duplicate paper or ratification, properly signed, is required within ONE (1) MONTH from the mailing date of this letter or within the time remaining in the response period of the last Office action.
3. ☐ The paper filed on _____ is signed by _____, who is not of record. A duplicate paper or ratification signed by a person of record, or by a person made of record by way of a new power of attorney, is required within ONE (1) MONTH from the mailing date of this letter or within the time remaining in the response period of the last Office action.
4. ☐ The Amendment filed on _____ does not comply with 37 CFR 1.530(d)-(j). Patent owner is given ONE (1) MONTH from the mailing date of this letter, or within the time remaining in the response period of the last Office action to correct this informality; otherwise, the reexamination proceeding will be terminated (37 CFR 1.550(d)).
5. ☒ Other
Notice of a Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 1/6/04, Paper No. 13, is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. Specifically, in the 1/6/04 amendment, claims 29-34 are indicated as Currently Amended, Previously Presented or Cancelled, however claims 29-34 were withdrawn from consideration in Paper No. 11, mailed 6/5/03. Appropriate correction is required.

FRANCES P. OROPEZA
ART UNIT 3762 1/16/04

NOTE: EXTENSION OF TIME ARE GOVERNED BY 37 CFR 1.550(c). If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

cc: Requester (if third party requester)